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(Private Secretary)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO. 1003 OF 2019

Sujit Ganesh Lawande

.. Petitioner

Versus

Maharashtra State Commissioner for
Women & Ors.

.. Respondents

-
- Mr. Rashmin Khandekar a/w Mr. Ajay Yadav i/by Dinesh Mishra for the Petitioner
 - Mr. L.T. Satelkar, AGP for Respondent No. 5
 - Mr. Onkar Gupte a/w Mr. Bhuvan Thakker i/by Malvi Ranchoddas & Co for Respondent No. 2
 - Mr. Sandeep Karu for Respondent No. 4
-

**CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.**

DATE : OCTOBER 16, 2019.

P.C.:

1. The petition is taken up for final disposal at this stage with consent of the learned counsel for the parties.

2. The petitioner has challenged an order dated 4.4.2018 passed by the Maharashtra State Commission for Women ("**the Commission**" for short). Respondent No. 2, the mother of the petitioner had filed a complaint before the Commission of being unceremoniously thrown out from the

family property in nature of residential unit. On such compliant, the Commission has passed the impugned order, relevant portion of which reads as under:-

"Recommendation of the Commission :

That the mother should get the block vacated which is in her name and wherein the non-applicant Shri. Sujit Lawande is residing. That the non-applicant should bear further expenses of the mother along with her medical expenses. That on which basis the residential block of the society at Bandra has been transferred, those papers should be submitted before the Commission. Also Shri. Sujit Lawande should immediately transfer (handover) Smt. Subha Lawande's Aadhar Card, Pan Card, Passbook of Block and Share Certificate of Flat situated at Bandra (W), etc to Smt. Subha Ganesh Lawande.

That by complying with the aforesaid orders, this office of the commission should be informed within 15 days."

3. Learned counsel for the petitioner submitted that the petitioner is the owner of the property and the Commission has assumed adjudicatory role which jurisdiction the Commission under the Maharashtra State Commission for Women Act, 1993 ("**the Act**" for short) does not enjoy. In this context, the learned counsel has relied on the decisions, reference to which would be made later.

4. On the other hand, the learned counsel for respondent No. 2 submitted that the petitioner's claim of ownership of the property in question is not valid. The Commission has passed appropriate order after examination of the facts on record.

5. In the present petition, we are not called upon to decide the correctness of the rival stand with respect to the title of the property in question. A short question is does the Commission has power to adjudicate such issues. We have noted that in the operative portion of the order after observing its observations as recommendations of the Commission, in the final paragraph, the Commissioner has provided as under:-

" That by complying with the aforesaid order, this office of the commission should be informed within 15 days."

Thus, though the body of the order may give an impression that the findings of the Commission are in nature of recommendations, the final directions leave no manner of doubt that the same were meant to be complied with.

6. In our opinion, the Commission does not have such

powers. Section 10 of the Act refers to the functions of the Commission. We have perused the said Section and other relevant provisions. In somewhat similar legislation of State of Orissa, the Supreme Court had occasion in case of **Bhabani Prasad Jena Vs. Convenor Secretary, Orissa State Commission for Women & Anr.**¹ to examine the nature of powers enjoyed by the Commission under the State Act. After perusal of the relevant provisions, the Supreme Court had come to the conclusion that the State Commission for Women does not have the jurisdiction to direct undertaking of DNA test. Under slightly different context, this Court in the case of **KPMG India Pvt Ltd & Anr. Vs. National Commission for Women & Anr.**² had held that the State Commission for Women does not have adjudicatory powers.

7. Under these circumstances, the final portion of the impugned order which is reproduced herein above in inverted portion is deleted. Petition is disposed of accordingly.

1 (2010) 8 SCC 633

2 Judgment dt. 11.8.2014 in O.S.W.P. 146 of 2014

8. Registry to forward copy of this order to the Registrar of the Commission for its information.

[S.J. KATHAWALLA, J.]

[AKIL KURESHI, J]